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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,415	04/16/2004	Myong Deok Kim	9988.104.00-US	9371
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MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006			EXAMINER PERRIN, JOSEPH L	
			ART UNIT	PAPER NUMBER
			1792	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,415

Applicant(s)

KIM ET AL.

Examiner

Joseph L. Perrin, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 27 August 2007 have been fully considered but they are not persuasive.
2. Turning to the rejection(s) of the claims under 35 U.S.C. § 102, it is noted that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims (*Sjolund v. Musland*, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)). Anticipation under 35 U.S.C. § 102 is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed invention. See *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1064 (Fed. Cir.), cert. denied, 488 U.S. 892 (1988); *RCA Corp. v. Applied Digital Data Sys., Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of properties that are inherently possessed by the prior art reference. *Verdegaal Brothers Inc. v. Union Oil co. of California*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir. 1987), cert. denied, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses each and every element set forth in the claim (*In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994) and *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990)); however, the law

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of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). Also, a reference anticipates a claim if it discloses the claimed invention such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention. See *In re Graves*, 69 F.3d 1147, 1152, 36 USPQ2d 1697, 1701 (Fed. Cir. 1995), cert. denied, 116 S.Ct. 1362 (1996), quoting from *In re LeGrice*, 301 F.2d 929, 936, 133 USPQ 365, 372 (CCPA 1962).

3. Thus, regarding SHUNICHI, applicant argues that SHUNICHI discloses a low hardness rubber member and high hardness rubber member but does not disclose "that one of the members is 'formed of a block copolymer of hard blocks and soft blocks' while the other member is formed of a 'second material' as recited in claim 1. Applicant further argues that there is no disclosure of a "block copolymer" but just the material being "rubber". Firstly, as discussed above the law of anticipation does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ 577, 583 (Fed. Cir. 1985). While SHUNICHI does not expressly disclose the same language of applicant (i.e. block copolymer) SHUNICHI clearly

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discloses two different rubbers (defined by their hardness properties) which are integrally formed. One having ordinary skill in the art would appreciate this to read on a block copolymer, particularly since applicant's block copolymers are made from two different rubbers as well and are for the same purpose of dampening. Secondly, given the broad recitation of the second member being a "second material", any material on the leg in SHUNICHI reads on this recitation. Accordingly, recitation of SHUNICHI still reads on applicant's claim 1. Regarding claims 2-3 and 13-14, SHUNICHI does not disclose butyl rubber and therefore the §102 rejection over these claims is withdrawn.

4. Regarding the §103 rejection over SHUNICHI and RIEGER, applicant argues that RIEGER does not disclose the block copolymer or leg pad of claim 1. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the instant case, SHUNICHI was relied upon for such teaching and not RIEGER. RIEGER was cited for known particular properties of dampening materials for their suited purpose. The selection of known materials to achieve desired properties is a well established concept and would be common sense to one skilled in the art. Thus, the argument against RIEGER is not persuasive.

5. Regarding the §103 rejection over SHUNICHI and YAMAMOTO, applicant argues that SHUNICHI is still deficient for claim 1. This is not persuasive for reasons indicated above. As previously noted, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

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See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Further, regarding claim 15 the use of diblock and triblock polymers applicant challenges the Examiner for taking Official Notice and requests adequate documentary evidence apparently taking the position that diblock and triblock polymers are not well known in the art. Notwithstanding the fact that the prior art, including the prior art of record, is replete with teachings of plural blocks of polymer for their desired inherent dampening properties (the primary reference SHUNICHI reads on a diblock polymer since the integrated high and low hardness rubbers manifestly are different rubbers). Moreover, to satisfy applicant's request attention is directed to U.S. Patent No. 6,914,091 to DONALD et al. which teaches common knowledge flexible block copolymers including "triblock" and "multi-block" (col. 4, lines 26-28) and their use in "major appliances" as "vibration dampers" (col. 30, lines 33-34). Applicant is reminded that an obviousness determination is not the result of a rigid formula disassociated from the consideration of the facts of a case. Indeed, the common sense of those skilled in the art demonstrates why some combinations would have been obvious where others would not. *Leapfrog Enterprises Inc. v. Fisher-Price Inc.*, 82 USPQ2d 1687 (Fed. Cir. 2007); see also *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007). Manifestly, the combination of different dampening materials (i.e. different polymers) to achieve the predictable results of desired damping properties inherent with said materials would be well with the technical grasp of one having ordinary skill in the art. Thus, simply duplicating such parts would not appear to achieve any unexpected result since such materials would predictably produce dampening effects inherent to the common knowledge materials.

6. Regarding the §103 rejection of claims 11-12 over SHUNICHI and OGAWA, applicant argues that OGAWA does not cure the alleged deficiencies of SHUNICHI. This is not persuasive because SHUNICHI is not deemed to be deficient.

Claim Rejections - 35 USC § 102

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 11-164986 to SHUNICHI et al. ("SHUNICHI"). SHUNICHI discloses a washing machine comprising a conventional outer housing (10), legs (32) fitted to the bottom of the cabinet, leg pads comprising a first member contacting the floor and comprising hard blocks (44) and soft blocks (43) in contact with each other (readable on block copolymer) and a second member (42) in contact with the first member for attenuating washing machine vibration. Accordingly, recitation of SHUNICHI reads on applicant's claimed invention.

Claim Rejections - 35 USC § 103

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 2-3 & 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over SHUNICHI in view of U.S. Patent No. 6,028,147 to OGAWA et al. ("OGAWA"). Recitation of SHUNICHI is repeated here from above. While SHUNICHI discloses a leg dampening pad comprising a first member including integrated hard and soft rubber segments readable on a block copolymer SHUNICHI does not expressly disclose a

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second member of butyl rubber. Re claim 13, Figure 4 shows the leg and leg pad being joined by elastic hook (42) (see Figures 3-4 and the abstract). Re claim 14, Figure 4 also shows one block being located between the top and bottom portion of another block which reads on a "the first member ... projection passed through the second member". OGAWA teaches that it is known to provide selected block copolymers for their desired dampening properties (see, for instance, col. 10, lines 46-59) and the use of butyl rubber with the block copolymers (see, for instance, col. 12, lines 25-30). Thus, all of the component parts are known in SHUNICHI and OGAWA. The only difference is the combination of "old elements" into a single dampener by combining the block copolymer of SHUNICHI and the butyl rubber of OGAWA. It would have been obvious to one having ordinary skill in the art to combine the butyl rubber member of OGAWA with the block copolymer leg dampening member of SHUNICHI to achieve the predictable results of producing desired dampening properties based on known dampening properties of selected dampening materials.

Regarding claims 11-12, SHUNICHI discloses the use of elastic block polymers as vibration dampers in washing machine legs as claimed but does not expressly disclose how the leg pad and leg are connected (notwithstanding the fact that the leg pad and leg are clearly connected by some type of adhesive means). OGAWA teaches that it is known in the polymer manufacturing art to apply an elastomeric block polymer with damping properties using conventional adhesive means including insert molding (also readable on an "adhesive"; see col. 12, lines 40-50).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the block polymer leg pads of SHUNICHI by conventional

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polymer molding or forming processes such as insert molding and the like (also readable on an "adhesive") as described by OGAWA in order to arrive at applicant's invention. Such conventional polymer molding and forming processes would be well within the knowledge generally available to one having ordinary skill in the art and, absent secondary considerations, such conventional processes are not considered a point of novelty.

11. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over SHUNICHI and OGAWA, and further in view of RIEGER. Recitation of SHUNICHI and OGAWA are repeated here from above. SHUNICHI discloses the use of elastic polymers as vibration dampers in washing machine legs as claimed but does not expressly disclose any material detail such as the types of polymers or the properties associated therewith (i.e. typical polymer properties such as glass transition temperature or shore hardness). RIEGER discloses that it is known that block polymers may be used for vibration dampening (see col. 6, line 27) and in household appliances (col. 6, line 44), and that such block polymers may have specific glass transition temperatures (-50 ~ 30°C glass transition temperature range; see col. 3, line 49 *et seq.*) and specific shore hardness (i.e. a shore hardness of 30 to achieve "superior softness"; see col. 4, line 29 *et seq.*) which are dependent on the type of material and is adjustable based on material of the polymer.

Therefore, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the material polymer/copolymer based on desired application (i.e. increasing or decreasing

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hardness/softness), as described in RIEGER, in a washing machine dampening structure as described in SHUNICHI and OGAWA in order to achieve desired properties such as hardness/softness, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

12. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over SHUNICHI in view of OGAWA, and further in view of YAMAMOTO. Recitation of SHUNICHI and OGAWA are repeated here from above. SHUNICHI discloses the use of elastic polymers as vibration dampers in washing machine legs as claimed but does not expressly disclose any material detail of the polymer composition. YAMAMOTO teaches that it is known in the elastomeric polymer art to use polystyrene as a hard block and vinyl-polyisoprene as a soft block in a block copolymer blended with styrene-butadiene-styrene to form an elastomeric composition useful in applications such as vibration damping (see abstract).

Therefore, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the vibration damping polymer/copolymer of YAMAMOTO in a washing machine dampening structure as described in SHUNICHI in order to provide an elastomeric composition with vibration dampening properties in washing machine legs. Moreover, there would be a reasonable expectation of success in applying the elastomeric polymer of YAMAMOTO in the washing machine legs of SHUNICHI and OGAWA in order to achieved the

desired vibration damping properties associated with the disclosed elastomeric polymer composition.

13. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over SHUNICHI in view of OGAWA, and further in view of DONALD. Recitation of SHUNICHI and OGAWA are repeated here from above. While SHUNICHI and OGAWA, in the aggregate, disclose the use of a first material of block copolymers having hard and soft segments and a second material of butyl rubber for their desired properties, neither reference discloses duplicating the first material as a third material. DONALD teaches common knowledge flexible block copolymers including "triblock" and "multi-block" (col. 4, lines 26-28) and their use in "major appliances" as "vibration dampers" (col. 30, lines 33-34). Therefore, the position is taken that the combination of "old elements" for their intended purpose to achieve the predictable results of providing dampening to an appliance would have been obvious to one having ordinary skill in the art since such diblock and triblock polymers are common knowledge in the art and using plural blocks would have been an obvious modification since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8; *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Moreover, it would have been common sense to one having ordinary skill in the art to combine dampening materials in order to achieve the predictable results of their inherent dampening properties and the selection of such known dampening materials to achieve dampening properties would have resulted in a reasonable expectation of success.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph L. Perrin/

Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1792

JLP